

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Tessa Yesselman	Team: Squad #12	CCRB Case #: 201703065	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 04/19/2017 2:30 AM	Location of Incident: St. George Staten Island Ferry Terminal	Precinct: 120	18 Mo. SOL 10/19/2018	EO SOL 10/19/2018	
Date/Time CV Reported Thu, 04/20/2017 3:00 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Thu, 04/20/2017 3:00 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Thomas Cancilla	05419	934465	PBSI
2. POM Alexander Deguzman	02254	950292	PBSI

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Michael Bilbao	05385	934493	PBSI

Officer(s)	Allegation	Investigator Recommendation
A.POM Thomas Cancilla	Discourtesy: Police Officer Thomas Cancilla spoke discourteously to § 87(2)(b)	
B.POM Thomas Cancilla	Force: Police Officer Thomas Cancilla used physical force against § 87(2)(b)	
C.POM Thomas Cancilla	Force: Police Officer Thomas Cancilla used a chokehold against § 87(2)(b)	
D.POM Thomas Cancilla	Force: Police Officer Thomas Cancilla used physical force against § 87(2)(b)	
E.POM Alexander Deguzman	Off. Language: Police Officer Alexander Deguzman made remarks to § 87(2)(b) based upon the perceived sexual orientation of § 87(2)(b)	

Case Summary

On April 20, 2017, § 87(2)(b) filed this complaint with the CCRB in person at the agency. A duplicate complaint was filed with IAB, contained under Log #2017-18581 (**20 Board Review**).

On April 19, 2017, at approximately 3:00 AM, § 87(2)(b) attempted to enter into a temporarily closed waiting area of the St. George Staten Island Ferry Terminal. Police Officer Thomas Cancilla, Police Officer Alexander Deguzman, and Police Officer Michael Bilbao, of Patrol Borough Staten Island, approached § 87(2)(b). PO Cancilla told § 87(2)(b) to get the “fuck” out, and pushed him to the ground (**Allegation A, Allegation B**). After § 87(2)(b) stood up, PO Cancilla guided him through the door of the concourse area and into the top of a ramp. PO Cancilla pushed § 87(2)(b) against the wall of the ramp, and pushed his forearm into § 87(2)(b)'s neck (**Allegation C**). After § 87(2)(b) and the officers walk down the ramp, PO Cancilla punched § 87(2)(b) in the left side of his face (**Allegation D**). § 87(2)(b) was subsequently brought to the ground and handcuffed. During this struggle, PO Deguzman allegedly called § 87(2)(b) a “faggot” (**Allegation E**).

§ 87(2)(b) was arrested and charged with § 87(2)(b) (18 Board Review).

The investigation obtained surveillance camera footage of the incident. See the allegations below for corresponding footage. § 87(2)(g)

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- § 87(2)(b) § 87(2)(c)
- As of August 10, 2017, a FOIL request to the Office of the Comptroller is pending.

Civilian and Officer CCRB Histories

- § 87(2)(b) has one previous complaint with the CCRB, and it is currently pending review by the board (**28 Board Review**).
- PO Cancilla has been a member of service for thirteen years and has six previous allegations, with no substantiations. PO Cancilla has one previous physical force allegation.
- PO Deguzman has been a member of service for six years, and has five previous allegations. § 87(2)(g)

Findings and Recommendations

Allegation A -Discourtesy: Police Officer Thomas Cancilla spoke discourteously to § 87(2)(b)

It is undisputed that § 87(2)(b) attempted to enter a closed area of the terminal, and was told that he could not enter.

§ 87(2)(b) **(01 Board Review)** did not allege that PO Cancilla spoke discourteously to him or pushed him. § 87(2)(b) stated that he attempted to enter into the waiting area to use a payphone, and was told by PO Cancilla that he was not allowed to. § 87(2)(b) decided to leave, and as he walked away, the officers walked approximately twenty feet behind him, saying “derogatory” things to him. § 87(2)(b) could not specify what the derogatory statements were.

§ 87(2)(b) **(05 Board Review)** stated that § 87(2)(b) attempted to enter a closed area of the terminal, and that he informed § 87(2)(b) he could not enter. § 87(2)(b) was intoxicated, and had slurred speech. § 87(2)(b) refused to leave, and knocked a cup of coffee to the ground. § 87(2)(b) did not hear PO Cancilla speak discourteously to § 87(2)(b) and did not see PO Cancilla use force against § 87(2)(b).

In the DOT Incident Report **(04 Board Review)**, § 87(2)(b) wrote that when § 87(2)(b) attempted to enter the closed area, § 87(2)(b) said that he wanted to use a payphone. § 87(2)(b) refused to leave the area, and NYPD removed him.

PO Cancilla **(07 Board Review)** stated that when § 87(2)(b) initially entered the terminal, § 87(2)(b) a Department of Transportation Inspector, approached him, and informed him that the waiting area was temporarily closed. § 87(2)(b) became irate, and called § 87(2)(b) a “fucking bum.” PO Cancilla approached § 87(2)(b) explained who § 87(2)(b) was, and told him that he needed to leave, because the waiting area was temporarily closed for a security sweep. § 87(2)(b) remained irate, and yelled “fuck you,” at PO Cancilla. PO Cancilla continued to tell § 87(2)(b) that he needed to leave, and § 87(2)(b) continued to curse, and refuse to leave. § 87(2)(b) told PO Cancilla that he was going to “kick his ass,” and that he was not going to leave. At the time that PO Cancilla made initial physical contact with § 87(2)(b) § 87(2)(b) was technically trespassing in the terminal, because he was refusing to leave the terminal after being instructed to do so by both Department of Transportation and NYPD personnel.

PO Cancilla pushed § 87(2)(b) (see allegation B), and told him to get the “fuck” out. PO Cancilla told § 87(2)(b) to get the “fuck” out because § 87(2)(b) was not responding to his instructions to leave, and was yelling and cursing at him. PO Cancilla also stated that he lost his temper and composure in interacting with § 87(2)(b).

Patrol Guide Procedure 203-09 states that officers must be courteous and respectful **(27 Board Review)**.

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

Allegation B- Physical Force: Police Officer Thomas Cancilla used physical force against

§ 87(2)(b)



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Surveillance video (**22 Board Review**) shows that PO Cancilla pushed § 87(2)(b) and that § 87(2)(b) fell to the ground. In the video, § 87(2)(b) is pictured walking away from the officers and towards the exits to the terminal, while turning his head back and speaking to the officers. § 87(2)(b) is also seen pointing his finger at PO Cancilla. The video further shows that § 87(2)(b) repeatedly walks towards the door, and then turns around and walks back towards the officers.

PO Cancilla stated that he pushed § 87(2)(b) because they were ejecting § 87(2)(b) from the terminal and § 87(2)(b) continuously turned around and walked back as though he was coming back into the terminal. § 87(2)(b) fell to the ground. PO Cancilla thought that § 87(2)(b) fell to put on a show, because he did not think that he pushed § 87(2)(b) hard enough for him to fall, and because § 87(2)(b) told PO Cancilla that he used to work in the terminal and knew that cameras are all around.

PO Bilbao (**08 Board Review**) heard PO Cancilla repeatedly tell § 87(2)(b) to leave the terminal, and heard § 87(2)(b) tell § 87(2)(b) that he was a “fucking bum.” PO Bilbao then saw PO Cancilla push § 87(2)(b) and saw § 87(2)(b) fall to the ground. PO Bilbao thought that § 87(2)(b) fell “dramatically” to the ground.

PO Deguzman (**06 Board Review**) saw § 87(2)(b) fall to the ground after interacting with PO Cancilla, but did not know what physical contact PO Cancilla made with § 87(2)(b) to make him fall.

Patrol Guide Procedure 221-01 states that MOS will use only the reasonable force necessary to gain control or custody of a subject.

PO Cancilla pushed § 87(2)(b) towards the exit, after previously instructing him verbally to leave, and while continuing to instruct him to leave. § 87(2)(g)

§ 87(2)(g)

Allegation C- Physical Force: Police Officer Thomas Cancilla used a chokehold against

§ 87(2)(b)

§ 87(2)(b) stated that the officers maintained a distance of at least 20 feet from him prior to PO Cancilla striking him in the face.



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Surveillance video (**23 Board Review**) shows PO Cancilla pushing § 87(2)(b) against the wall with his forearm against § 87(2)(b)'s neck. PO Bilbao is standing behind PO Cancilla, with a hat on, and PO Deguzman is pictured to the left of § 87(2)(b) with no hat on. PO Cancilla holds § 87(2)(b) against the wall from :07 until :21. Words are exchanged while PO Cancilla holds § 87(2)(b) against the wall. At :21, PO Cancilla pushes § 87(2)(b) down the ramp, and then PO Cancilla begins to walk back up the ramp. The video does not contain audio.

PO Cancilla (**07 Board Review**) did not recall pushing § 87(2)(b) against a wall, and did not recall using a chokehold against § 87(2)(b) or otherwise restricting his breathing. PO Cancilla learned from conversation with PO Bilbao and PO Deguzman later that he had placed § 87(2)(b) against a wall.

PO Cancilla stated that after he pushed § 87(2)(b) and he fell, § 87(2)(b) walked through the door in the concourse leading out to the bus ramps. After § 87(2)(b) walked through the door, he continued to refuse to leave, and kept walking back towards the officers. § 87(2)(b) threatened the officers, and told PO Cancilla that he was going to stab him in the back, and he would never see it coming. § 87(2)(b) also told PO Cancilla that he knew his schedule, and knew that two officers always needed to be on the ferry, and that the officers would not be able to stop him from attacking them. PO Cancilla took § 87(2)(b)'s threats seriously, and lost his temper. PO Cancilla took off his uniform hat, threw it to the ground, and told § 87(2)(b) that if he was going to fight him, he should “just fight.” PO Cancilla took his hat off because if he was going to get in a fight with § 87(2)(b) he did not want his hat to fall in his eyes and obstruct his vision.

PO Deguzman (**06 Board Review**) did not recall seeing § 87(2)(b) placed against a wall, or seeing PO Cancilla use a chokehold or otherwise restrict his breathing.

PO Bilbao (**08 Board Review**) stated that after PO Cancilla pushed § 87(2)(b) and he fell to the ground, § 87(2)(b) walked out the door away from the officers, and then turned around and walked back towards them. The officers continued to instruct § 87(2)(b) to leave, and § 87(2)(b) continued to refuse to leave. § 87(2)(b) walked through the door, and the officers followed after him, telling him to leave. § 87(2)(b) again turned around and refused to leave, and PO Cancilla pushed him against a wall, and told him to leave. PO Bilbao did not see PO Cancilla use a chokehold against § 87(2)(b) or otherwise restrict his breathing.

Patrol Guide Procedure 221-01 (**21 Board Review**) defines a chokehold as defined as including, but not limited to, any pressure to the throat or windpipe, which may prevent or hinder breathing or reduce intake of air, and states that officers shall not use chokeholds.

§ 87(2)(g)

Allegation D- Physical Force: Police Officer Thomas Cancilla used physical force against

§ 87(2)(b)

§ 87(2)(b) **(01 Board Review)** stated that as he walked down the bus ramps, the officers followed after him, and continued to say things to him. § 87(2)(b) did not know what statements the officers were making, but again described the statements as derogatory, but not necessarily containing profanity. When § 87(2)(b) reached the taxi circle at the end of the ramp, he turned around and told the officers that they were bad officers, and the reason for the drug epidemic. PO Cancilla attempted to lunge at § 87(2)(b) and PO Bilbao and PO Deguzman held him back. The officers were standing approximately twenty feet away from § 87(2)(b). PO Cancilla broke free from PO Bilbao and PO Deguzman, ran the twenty feet, and punched § 87(2)(b) on the left side of his face.

§ 87(2)(b)'s medical records (**Privileged Documents**) show that his chief complaint was a laceration below his left eye. § 87(2)(b) was admitted to the hospital in police custody, and that he sustained the laceration from "falling." It is noted that § 87(2)(b) was intoxicated, and that he was later sedated, due to agitated and combative behavior. § 87(2)(b)'s laceration was one centimeter long, and surrounded by swelling.

§ 87(2)(b)'s arrest photograph (**13 Board Review**) shows a laceration underneath his left eye, and swelling to his left eye.

A photograph of § 87(2)(b) taken at the CCRB (**02 Board Review**), one day after the incident, shows a laceration under his left eye, and bruising under his left eye.



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Surveillance video (**24 Board Review**) shows PO Deguzman and PO Bilbao holding PO Cancilla back from § 87(2)(b). PO Deguzman and PO Bilbao eventually continue walking after § 87(2)(b) while PO Cancilla stands back.



201703065_20170809_1124A_DM.mp4

Surveillance video (**25 Board Review**) shows PO Deguzman and PO Bilbao continuing to walk after § 87(2)(b) and PO Cancilla re-approaching them (at :40).



201703065_20170809_1126_DM.mp4

Surveillance video (**26 Board Review**) shows § 87(2)(b) being walked back inside of the terminal after his arrest. He is pictured bleeding from his face.

PO Cancilla (**07 Board Review**) stated that after he lost his temper, PO Bilbao and PO Deguzman held him back so that he could not go after § 87(2)(b). PO Cancilla was yelling and cursing at § 87(2)(b). PO Cancilla told PO Bilbao to go with PO Deguzman after § 87(2)(b) and told PO Bilbao that he was going to stay back to try and calm down. PO Bilbao and PO Deguzman walked away, after § 87(2)(b). Once PO Bilbao and PO Deguzman were out of sight, PO Cancilla became concerned, because § 87(2)(b) was a big person. PO Cancilla did not want something to happen to PO Deguzman and PO Bilbao without being there to assist, and so he started walking in their direction. PO Cancilla walked slowly, because he did not want to confront § 87(2)(b) and amp the situation up again, or engage in a confrontation. PO Deguzman and PO Bilbao were several bus lengths away, with § 87(2)(b). As PO Cancilla approached, he heard § 87(2)(b) call PO Deguzman a “nigger.” PO Cancilla thought that § 87(2)(b) looked like he was “sizing” PO Deguzman up to hit him, and so he walked closer to them. § 87(2)(b) looked at PO Cancilla, and cocked his fist back, as if he was going to strike PO Cancilla. PO Cancilla was surprised, because § 87(2)(b) had been making a lot of threats against the officers, but had not hit any of them. PO Cancilla “jabbed” § 87(2)(b) in the face with his left hand in a closed fist. PO Cancilla did not know what side of § 87(2)(b) s face the hit landed on. PO Cancilla struck § 87(2)(b) because he thought § 87(2)(b) was going to hit him, and he was not going to let § 87(2)(b) get the first swing in. PO Cancilla stated that he did not strike § 87(2)(b) because of the threats that § 87(2)(b) had previously made. PO Cancilla and PO Deguzman then grabbed § 87(2)(b) and brought him to the ground, where he was handcuffed. After he was handcuffed and brought back to his feet, PO Cancilla observed § 87(2)(b) s face bleeding. PO Cancilla did not know where § 87(2)(b) s injury came from, and thought that there may have been gravel on the ground that scraped § 87(2)(b) when he fell to the ground.

§ 87(2)(b) s arrest report (**18 Board Review**) notes that physical force in the form of a “hand strike” was used against § 87(2)(b). PO Cancilla was § 87(2)(b) s arresting officer.

The Medical Treatment of Prisoner Report (**17 Board Review**) notes that § 87(2)(b) had a laceration and swelling to his left eye. The report was prepared by PO Cancilla.

The TRI Report (**12 Board Review**) notes that § 87(2)(b) had abrasion to his left cheek, and that a hand strike was used against him. The TRI was prepared by PO Cancilla.

The Criminal Court Complaint (**16 Board Review**) does not include mention of a hand strike being used against § 87(2)(b). The deponent on the complaint was PO Cancilla.

PO Deguzman (**06 Board Review**) stated that while walking on the ramp, he continued to tell § 87(2)(b) to leave the terminal. § 87(2)(b) was threatening the officers, and refusing to leave. PO Deguzman saw that PO Cancilla was angry at § 87(2)(b) and held PO Cancilla back so that he could not follow after § 87(2)(b). PO Deguzman and PO Bilbao continued to follow after § 87(2)(b). PO Cancilla remained behind the other officers on the ramp. When § 87(2)(b) reached the end of the ramp, he turned around and called PO Deguzman a “nigger.” § 87(2)(b) also told PO Deguzman that he was going to be deported, because Trump is in office and is going to build a wall. PO Deguzman thought that § 87(2)(b) was going to hit him, because he sense that his demeanor shifted. PO Deguzman was not able to describe how exactly § 87(2)(b)'s demeanor changed. PO Deguzman then informed § 87(2)(b) that he was under arrest. PO Deguzman attempted to gain control of § 87(2)(b)'s arms, and § 87(2)(b) pulled his arms away and flailed them, preventing PO Deguzman from handcuffing him. PO Deguzman and § 87(2)(b) fell to the ground. PO Deguzman did not know where PO Bilbao and PO Cancilla were during this struggle, and did not know if they fell to the ground with him. PO Bilbao did not recall how § 87(2)(b) landed when he fell to the ground. § 87(2)(b) was handcuffed on the ground, and then stood up by the officers. Once § 87(2)(b) was standing, PO Bilbao observed a laceration and bleeding on § 87(2)(b)'s face.

PO Deguzman did not see PO Cancilla punch § 87(2)(b) in the face. PO Deguzman later learned from conversation with PO Cancilla that PO Cancilla had struck § 87(2)(b) in the face.

PO Bilbao (**08 Board Review**) stated that while the officers were walking down the ramp trying to eject § 87(2)(b) from the terminal, he held PO Cancilla back from § 87(2)(b) because PO Cancilla was angry. PO Deguzman continued to follow after § 87(2)(b) while he was holding PO Cancilla back. PO Bilbao let go of PO Cancilla and followed after PO Deguzman, because § 87(2)(b) was considerably bigger than PO Deguzman and he did not want PO Deguzman to be alone. § 87(2)(b) called PO Deguzman a “fucking nigger,” and told him that he was going to be deported because Trump is the president. § 87(2)(b) stepped closer to PO Deguzman and flexed his arms and clenched his fists. At this point, PO Deguzman told § 87(2)(b) that he was under arrest. PO Deguzman tried to pull § 87(2)(b)'s arms behind his back, and § 87(2)(b) pulled his arms away from PO Deguzman. As PO Deguzman continued to try and gain control of § 87(2)(b)'s arms, they fell to the ground. PO Bilbao approached PO Deguzman because he was concerned for PO Deguzman's safety, and wanted to offer him support. PO Bilbao did not know where PO Cancilla was at this point. Once PO Deguzman and § 87(2)(b) were on the ground, PO Deguzman continued trying to pull § 87(2)(b)'s arms behind his back. PO Bilbao observed one of § 87(2)(b)'s arms come free, and he placed a handcuff on it. PO Deguzman gained control of § 87(2)(b)'s other arm, and secured the other handcuff. The officers brought § 87(2)(b) to his feet, and PO Bilbao observed a laceration and bleeding to § 87(2)(b)'s face.

PO Bilbao did not see PO Cancilla punch § 87(2)(b) in the face. PO Bilbao learned later from conversation with PO Cancilla that PO Cancilla had struck § 87(2)(b) in the face.

The ISAR recommended further investigation of level two force by the Duty Captain and Patrol Borough Investigations Unit.

Patrol Guide Procedure 221-01 states that MOS will use only the reasonable force necessary to gain control or custody of a subject.

§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegation E- Offensive Language: Police Officer Alexander Deguzman made remarks to

§ 87(2)(b) [REDACTED] **based upon the perceived sexual orientation of** § 87(2)(b) [REDACTED]
§ 87(2)(b) [REDACTED] **(01 Board Review)** stated that during the struggle in which he was brought to the ground, PO Deguzman called him a “faggot.”

PO Deguzman **(06 Board Review)** stated that he did not call § 87(2)(b) [REDACTED] a “faggot,” nor did he otherwise engage in a conversation about § 87(2)(b) [REDACTED]’s perceived sexuality.

PO Cancilla **(07 Board Review)** and PO Bilbao **(08 Board Review)** did not hear PO Deguzman call § 87(2)(b) [REDACTED] a “faggot,” and did not hear PO Deguzman otherwise make any remarks about § 87(2)(b) [REDACTED]’s perceived sexuality.

§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]

Squad: 12

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

